



GENERAL ASSEMBLY COMMONWEALTH OF KENTUCKY

2005 REGULAR SESSION

SENATE BILL NO. 130

FRIDAY, FEBRUARY 18, 2005

The following bill was reported to the House from the Senate and ordered to be printed.

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TREY GRAYSON
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY Garlie Adkins

AN ACT relating to life insurance contracts and annuities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

1 Section 1. KRS 304.12-030 is amended to read as follows:

2 (1) As used in this section:

3 (a) "Replacement" means any transaction in which a new life insurance policy or
 4 annuity contract is to be purchased and it is known or should be known to
 5 the proposing producer, or to the proposing insurer if there is no producer,
 6 that by reason of the[such] transaction, an existing life insurance policy or
 7 annuity contract has been or is to be:

- 8 1. Lapsed, forfeited, surrendered[,], or partially surrendered, assigned to
 9 the replacing insurer, or otherwise terminated;
- 10 2. Converted to reduced paid-up insurance, continued as extended term
 11 insurance, or otherwise reduced in value by the use of nonforfeiture
 12 benefits or other policy values;
- 13 3. Amended so as to effect either a reduction in benefits or in the term for
 14 which coverage would otherwise remain in force or for which benefits
 15 would be paid;
- 16 4. Reissued with any reduction in cash value; or
- 17 5. Used in a financed purchase~~[Pledged as collateral or subjected to~~
 18 ~~borrowing, whether in a single loan or under a schedule of borrowing~~
 19 ~~over a period of time for amounts in the aggregate exceeding twenty-five~~
 20 ~~percent (25%) of the loan value set forth in the policy];~~

21 (b) "Existing insurer" means the insurance company whose existing life insurance
 22 policy or annuity contract is or will be changed~~[terminated]~~ or~~[otherwise]~~
 23 affected in a manner described within the definition of replacement
 24 transaction;

25 (c) "Replacing insurer" means the insurance company that issues or proposes to

1 issue a new life insurance policy or annuity contract that replaces an
 2 existing policy or contract or is a financed purchase;~~[in a replacement~~
 3 ~~transaction; and]~~

4 (d) "Existing life insurance policy or annuity contract" means any individual life
 5 insurance policy or annuity in force, including a life insurance policy under a
 6 binding or conditional receipt or a life insurance policy or annuity contract
 7 that is within an unconditional refund period;~~[, but excluding life insurance~~
 8 ~~obtained through the exercise of a dividend option]~~

9 (e) "Financed purchase" means the purchase of a new policy involving the
 10 actual or intended use of funds obtained by the withdrawal or surrender of,
 11 or by borrowing from values of, an existing policy to pay all or part of any
 12 premium due on the new policy. If a withdrawal, surrender, or borrowing
 13 involving the policy values of an existing policy is used to pay premiums on
 14 a new policy owned by the same policyholder and issued by the same
 15 company within four (4) months before or thirteen (13) months after the
 16 effective date of the new policy, it is prima facie evidence of the
 17 policyholder's intent to finance the purchase of the new policy with existing
 18 policy values. This prima facie standard does not affect the monitoring
 19 obligations of the existing insurer; and

20 (f) "Direct-response solicitation" means a solicitation through a sponsoring or
 21 endorsing entity or individual solely through mails, telephone, the Internet,
 22 or mass communication media.

23 (2)~~[Any person who solicits an application for new life insurance on the life of another~~
 24 ~~and who knows, or with the exercise of reasonable inquiry should know, that such~~
 25 ~~insurance will be purchased or otherwise acquired in a replacement transaction shall~~
 26 ~~not issue new life insurance to the applicant until thirty (30) days after notice of~~
 27 ~~such proposed replacement together with a copy of all soliciting material shown or~~

1 ~~delivered to the proposed insured has been delivered by the replacing insurer to the~~
 2 ~~existing insurer.~~

3 (3)} No replacing insurer shall issue any life insurance policy or annuity contract in a
 4 replacement transaction to replace an existing life insurance policy or annuity
 5 contract unless the replacing insurer shall agree in writing with the insured that:

6 (a) The new life insurance policy or annuity contract issued by the replacing
 7 insurer will not be contestable by it in the event of such insured's death to any
 8 greater extent than the existing life insurance policy or annuity contract
 9 would have been contestable by the existing insurer had such replacement not
 10 taken place provided, however, that this paragraph shall not apply to that
 11 amount of insurance written and issued which exceeds the amount of the
 12 existing life insurance; and

13 (b) The policy or contract owner shall have the right to return the policy or
 14 contract within thirty (30) days of the delivery of the policy or contract and
 15 receive an unconditional full refund of all premiums or considerations paid
 16 on it, including any policy fees or charges, or in the case of a variable or
 17 market adjustment policy or contract, a payment of the cash surrender
 18 value provided under the policy or contract plus the fees and other charges
 19 deducted from the gross premiums or considerations or imposed under such
 20 policy or contract ~~[The new life insurance issued by the replacing insurer may~~
 21 ~~be voluntarily surrendered by the insured at any time within thirty (30) days~~
 22 ~~after its delivery to the insured in exchange for a full refund of premiums paid~~
 23 ~~by the replacing insurer to the insured].~~

24 (3){(4)} Unless otherwise specifically included, subsection[subsections] (2){ and (3)}
 25 of this section shall not apply to:

26 (a) {Annuities;

27 (b) ~~Individual~~ }Credit life insurance;

1 ~~(b)(e)}~~ Group life insurance or group annuities where there is no direct
 2 solicitation of individuals by an insurance producer. Direct solicitation shall
 3 not include any group meeting held by an insurance producer solely for the
 4 purpose of educating or enrolling individuals or, when initiated by an
 5 individual member of the group, assisting with the selection of investment
 6 options offered by a single annuity provider in connection with enrolling
 7 that individual. The commissioner shall promulgate administrative
 8 regulations for group life insurance or group annuity certificates marketed
 9 through direct response solicitation~~], group credit life insurance, and life~~
 10 ~~insurance policies issued in connection with a pension, profit sharing or other~~
 11 ~~benefit plan qualifying for tax deductibility of premiums, provided, however,~~
 12 ~~that as to any plan described in this subsection, full and complete disclosure of~~
 13 ~~all material facts shall be given to the administrator of any plan to be~~
 14 ~~replaced];~~

15 (c) Group life insurance and annuities used to fund prearranged funeral
 16 contracts;

17 ~~(d)[~~ Variable life insurance under which the death benefits and cash values vary in
 18 accordance with unit values of investments held in a separate account;

19 ~~(e)}~~ An application to the existing insurer that issued the existing policy or
 20 contract when~~[life insurance and]~~ a contractual policy change or conversion
 21 privilege~~[or a privilege of policy change granted by the insurer]~~ is being
 22 exercised, or when the existing policy or contract is being replaced by the
 23 same insurer pursuant to a program filed with and approved by the
 24 commissioner;

25 ~~(e)(f)}~~ Existing life insurance that is a nonconvertible term life insurance policy
 26 which will expire in five (5) years or less and cannot be renewed; or

27 ~~(f)(g)}~~ Proposed life insurance that is to replace life insurance under a binding

or conditional receipt issued by the same company;

(g) Policies or contracts used to fund:

1. An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA);

2. A plan described by Sections 402(a), 401(k) or 403(b) of the Internal Revenue Code, where the plan, for purposes of ERISA, is established or maintained by an employer;

3. A governmental or church plan defined in Section 414 of the Internal Revenue Code, a governmental or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under Section 457 of the Internal Revenue Code;
or

4. A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor.

Notwithstanding the provisions of this paragraph, subsection (2) of this section shall apply to policies or contracts used to fund any plan or arrangement that is funded solely by contributions an employee elects to make, whether on a pre-tax or after-tax basis, and where the insurer has been notified that plan participants may choose from among two (2) or more insurers and there is a direct solicitation of an individual employee by an insurance producer for the purchase of a contract or policy. As used in this paragraph, direct solicitation shall not include any group meeting held by an insurance producer solely for the purpose of educating individuals about the plan or arrangement or enrolling individuals in the plan or arrangement or, when initiated by an individual employee, assisting with the selection of investment options offered by a single insurer in connection with enrolling that individual employee;

(h) Where new coverage is provided under a life insurance policy or contract and the cost is borne wholly by the insured's employer or by an association of which the insured is a member;

(i) Immediate annuities that are purchased with proceeds from an existing contract. Immediate annuities purchased with proceeds from an existing policy are not exempted from the requirements of this section; or

(j) Structured settlements.

~~[(5) As to proposed life insurance that is to replace existing life insurance issued by the same insurer or an insurer in the same group of affiliated insurers:~~

~~(a) Subsection (2) of this section shall not apply to such insurance; and~~

~~(b) Subsection (3) of this section shall apply to such insurance.]~~

~~(4) [(6)]~~ No person shall make or issue, or cause to be made or issued, any written or oral statement of a material fact which is untrue or omit to state a material fact necessary in order to make the statements made, in the light of circumstances under which they were made, not misleading with respect to comparisons as to the terms, conditions, or benefits contained in any policy for the purpose of inducing or attempting or tending to induce the policyholder to lapse, forfeit, borrow against, surrender, retain, exchange, modify, convert, or otherwise affect or dispose of any insurance policy.

Section 2. KRS 304.15-315 is amended to read as follows:

(1) This section shall be known as the "Standard Nonforfeiture Law for Individual Deferred Annuities."

(2) This section shall not apply to any reinsurance group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code,

as now or hereafter amended, premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, nor to any contract which shall be delivered outside this state through an agent or other representative of the insurer issuing the contract. However, to the extent that a variable annuity contract provides benefits that do not, before the maturity date, vary in accordance with the investment performance of any separate account or accounts maintained by the insurer as to such contract, as provided for in KRS 304.15-390, the contract shall contain provisions that satisfy the requirements of this section and shall not otherwise be subject to this section.

(3) In the case of contracts issued on or after the operative date of this section as defined in subsection (12) of this section, no contract of annuity, except as stated in subsection (2) of this section, shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the contract holder, upon cessation of payment of considerations under the contract.

(a) That upon cessation of payment of considerations under a contract, the insurer will grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in subsections (5), (6), (7), (8) and (10) of this section.

(b) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the insurer will pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in subsections (5), (6), (8) and (10) of this section. The insurer shall reserve the right to defer the payment of such cash surrender benefit for a period of six (6) months after demand therefor with surrender of the contract.

(c) A statement of the mortality table, if any, and interest rates used in calculating

1 any minimum paid-up annuity, cash surrender or death benefits that are
2 guaranteed under the contract, together with sufficient information to
3 determine the amounts of such benefits.

- 4 (d) A statement that any paid-up annuity, cash surrender or death benefits that
5 may be available under the contract are not less than the minimum benefits
6 required by any statute of the state in which the contract is delivered and an
7 explanation of the manner in which such benefits are altered by the existence
8 of any additional amounts credited by the insurer to the contract, any
9 indebtedness to the insurer on the contract or any prior withdrawals from or
10 partial surrenders of the contract.

11 Notwithstanding the requirements of this subsection, any deferred annuity contract
12 may provide that if no considerations have been received under a contract for a
13 period of two (2) full years and the portion of the paid-up annuity benefit at maturity
14 on the plan stipulated in the contract arising from considerations paid prior to such
15 period would be less than twenty dollars (\$20) monthly, the insurer may at its
16 option terminate such contract by payment in cash of the then present value of such
17 portion of the paid-up annuity benefit, calculated on the basis of the mortality table,
18 if any, and interest rate specified in the contract for determining the paid-up annuity
19 benefit, and by such payment shall be relieved of any further obligation under such
20 contract.

- 21 (4) The minimum values as specified in subsections (5), (6), (7), (8) and (10) of this
22 section of any paid-up annuity, cash surrender or death benefits available under an
23 annuity contract shall be based upon minimum nonforfeiture amounts as defined in
24 this section.

- 25 (a) With respect to contracts providing for flexible considerations, the minimum
26 nonforfeiture amount at any time at or prior to the commencement of any
27 annuity payments shall be equal to an accumulation up to such time at a rate

1 of interest of three percent (3%) per annum of percentages of the net
 2 considerations (as hereinafter defined) paid prior to such time, decreased by
 3 the sum of

- 4 1. Any prior withdrawals from or partial surrenders of the contract
- 5 accumulated at a rate of interest of three percent (3%) per annum; and
- 6 2. The amount of any indebtedness to the insurer on the contract, including
- 7 interest due and accrued;

8 and increased by any existing additional amounts credited by the insurer to the
 9 contract. The net considerations for a given contract year used to define the
 10 minimum nonforfeiture amount shall be an amount not less than zero and
 11 shall be equal to the corresponding gross consideration credited to the contract
 12 during that contract year less an annual contract charge of thirty dollars (\$30)
 13 and less a collection charge of one dollar and twenty-five cents (\$1.25) per
 14 consideration credited to the contract during that contract year. The
 15 percentages of net considerations shall be sixty-five percent (65%) of the net
 16 consideration for the first contract year and eighty-seven and one-half percent
 17 (87.5%) of the net considerations for the second and later contract years.
 18 Notwithstanding the provisions of the preceding sentence, the percentage shall
 19 be sixty-five percent (65%) of the portion of the total net consideration for any
 20 renewal contract year which exceeds by not more than two (2) times the sum
 21 of those portions of the net considerations in all prior contract years for which
 22 the percentage was sixty-five percent (65%).

- 23 (b) Notwithstanding any other provision of this subsection, for any contract issued
- 24 on or after July 1, 2003, and before July 1, 2006~~[2005]~~, the interest rate at
- 25 which net considerations, prior withdrawals, and partial surrenders shall be
- 26 accumulated for the purpose of determining nonforfeiture amounts shall be no
- 27 less than one and one-half percent (1.5%) per annum.

1 (c) With respect to contracts providing for fixed scheduled considerations,
2 minimum nonforfeiture amounts shall be calculated on the assumption that
3 considerations are paid annually in advance and shall be defined as for
4 contracts with flexible considerations which are paid annually with two (2)
5 exceptions:

6 1. The portion of the net consideration for the first contract year to be
7 accumulated shall be the sum of sixty-five percent (65%) of the net
8 consideration for the first contract year plus twenty-two and one-half
9 percent (22.5%) of the excess of the net consideration for the first
10 contract year over the lesser of the net considerations for the second and
11 third contract years.

12 2. The annual contract charge shall be the lesser of,
13 a. Thirty dollars (\$30), or
14 b. Ten percent (10%) of the gross annual consideration.

15 (d) With respect to contracts providing for a single consideration, minimum
16 nonforfeiture amounts shall be defined as for contracts with flexible
17 considerations except that the percentage of net consideration used to
18 determine the minimum nonforfeiture amount shall be equal to ninety percent
19 (90%) and the net consideration shall be the gross consideration less a contract
20 charge of seventy-five dollars (\$75).

21 (5) Any paid-up annuity benefit available under a contract shall be such that its present
22 value on the date annuity payments are to commence is at least equal to the
23 minimum nonforfeiture amount on that date. Such present value shall be computed
24 using the mortality table, if any, and the interest rate specified in the contract for
25 determining the minimum paid-up annuity benefits guaranteed in the contract.

26 (6) For contracts which provide cash surrender benefits, such cash surrender benefits
27 available prior to maturity shall not be less than the present value as of the date of

1 surrender of that portion of the maturity value of the paid-up annuity benefit which
2 would be provided under the contract at maturity arising from considerations paid
3 prior to the time of cash surrender reduced by the amount appropriate to reflect any
4 prior withdrawals from or partial surrenders of the contract, such present value
5 being calculated on the basis of an interest rate not more than one percent (1%)
6 higher than the interest rate specified in the contract for accumulating the net
7 considerations to determine such maturity value, decreased by the amount of any
8 indebtedness to the insurer on the contract, including interest due and accrued, and
9 increased by any existing additional amounts credited by the insurer to the contract.
10 In no event shall any cash surrender benefit be less than the minimum nonforfeiture
11 amount at that time. The death benefit under such contracts shall be at least equal to
12 the cash surrender benefit.

13 (7) For contracts which do not provide cash surrender benefits, the present value of any
14 paid-up annuity benefit available as a nonforfeiture option at any time prior to
15 maturity shall not be less than the present value of that portion of the maturity value
16 of the paid-up annuity benefit provided under the contract arising from
17 considerations paid prior to the time the contract is surrendered in exchange for, or
18 changed to, a deferred paid-up annuity, such present value being calculated for the
19 period prior to the maturity date on the basis of the interest rate specified in the
20 contract for accumulating the net considerations to determine such maturity value,
21 and increased by any existing additional amounts credited by the insurer to the
22 contract. For contracts which do not provide any death benefits prior to the
23 commencement of any annuity payments, such present values shall be calculated on
24 the basis of such interest rate and the mortality table specified in the contract for
25 determining the maturity value of the paid-up annuity benefit. However, in no event
26 shall the present value of a paid-up annuity benefit be less than the minimum
27 nonforfeiture amount at that time.

- 1 (8) For the purpose of determining the benefits calculated under subsections (6) and (7)
2 of this section, in the case of annuity contracts under which an election may be
3 made to have annuity payments commence at optional maturity dates, the maturity
4 date shall be deemed to be the latest date for which election shall be permitted by
5 the contract, but shall not be deemed to be later than the anniversary of the contract
6 next following the annuitant's seventieth birthday or the tenth anniversary of the
7 contract, whichever is later.
- 8 (9) Any contract which does not provide cash surrender benefits or does not provide
9 death benefits at least equal to the minimum nonforfeiture amount prior to the
10 commencement of any annuity payments shall include a statement in a prominent
11 place in the contract that such benefits are not provided.
- 12 (10) Any paid-up annuity, cash surrender or death benefits available at any time, other
13 than on the contract anniversary under any contract with fixed scheduled
14 considerations, shall be calculated with allowance for the lapse of time and the
15 payment of any scheduled considerations beyond the beginning of the contract year
16 in which cessation of payment of considerations under the contract occurs.
- 17 (11) For any contract which provides, within the same contract by rider or supplemental
18 contract provision, both annuity benefits and life insurance benefits that are in
19 excess of the greater of cash surrender benefits or a return of the gross
20 considerations with interest, the minimum nonforfeiture benefits shall be equal to
21 the sum of the minimum nonforfeiture benefits for the annuity portion and the
22 minimum nonforfeiture benefits, if any, for the life insurance portion computed as if
23 each portion were a separate contract. Notwithstanding the provisions of
24 subsections (5), (6), (7), (8), and (10) of this section, additional benefits payable
- 25 (a) In the event of total and permanent disability,
26 (b) As reversionary annuity or deferred reversionary annuity benefits, or
27 (c) As other policy benefits additional to life insurance, endowment and annuity

benefits, and considerations for all such additional benefits,
 shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up
 annuity, cash surrender and death benefits that may be required by this section. The
 inclusion of such additional benefits shall not be required in any paid-up benefits,
 unless such additional benefits separately would require minimum nonforfeiture
 amounts, paid-up annuity, cash surrender and death benefits.

(12) (a) 1. After August 1, 2005~~[June 17, 1978]~~, any insurer may file with the
 commissioner a written notice of its election to apply~~[comply with]~~ the
 provisions of Section 3 of this Act on a contract-form by contract-form
basis to annuity contracts issued by the insurer during the period from
the date of the election through June 30, 2006;~~[this section after a~~
~~specified date before June 17, 1980. After the filing of such notice, then~~
~~upon such specified date, this section shall become operative with~~
~~respect to annuity contracts thereafter issued by such insurer. If an~~
~~insurer makes no such election, the operative date of this section for~~
~~such insurer shall be June 17, 1980]~~

2. In all other instances, insurers shall apply the provisions of Section 2
of this Act to annuity contracts issued through June 30, 2006; and

(b) Insurers shall apply the provisions of Section 3 of this Act to all annuity
contracts issued on or after July 1, 2006.

SECTION 3. A NEW SECTION OF SUBTITLE 15 OF KRS CHAPTER 304 IS
 CREATED TO READ AS FOLLOWS:

(1) This section shall be known as the "Standard Nonforfeiture Law for Individual
Deferred Annuities of 2005."

(2) This section shall not apply to any reinsurance group annuity purchased under a
retirement plan or plan of deferred compensation established or maintained by
an employer, including a partnership or sole proprietorship, or by an employee

1 organization, or by both, other than a plan providing individual retirement
 2 accounts or individual retirement annuities under Section 408 of the Internal
 3 Revenue Code, as now or hereafter amended, premium deposit fund, variable
 4 annuity, investment annuity, immediate annuity, any deferred annuity contract
 5 after annuity payments have commenced, or reversionary annuity, nor to any
 6 contract which shall be delivered outside this state through an agent or other
 7 representative of the insurer issuing the contract. However, to the extent that a
 8 variable annuity contract provides benefits that do not, before the maturity date,
 9 vary in accordance with the investment performance of any separate account or
 10 accounts maintained by the insurer as to such contract, as provided for in KRS
 11 304.15-390, the contract shall contain provisions that satisfy the requirements of
 12 this section and shall not otherwise be subject to this section.

13 (3) In the case of contracts issued on or after July 1, 2006, no contract of annuity,
 14 except as provided in subsection (2) of this section, shall be delivered or issued for
 15 delivery in this state unless it contains in substance the following provisions, or
 16 corresponding provisions which in the opinion of the commissioner are at least
 17 as favorable to the contract holder, upon cessation of payment of considerations
 18 under the contract:

19 (a) That upon cessation of payment of considerations under a contract, or upon
 20 the written request of the contract owner, the insurer shall grant a paid-up
 21 annuity benefit on a plan stipulated in the contract of such value as is
 22 specified in subsections (8), (9), (10), (11), and (13) of this section;

23 (b) If a contract provides for a lump sum settlement at maturity, or at any other
 24 time, that upon surrender of the contract at or prior to the commencement
 25 of any annuity payments, the insurer shall pay, in lieu of any paid-up
 26 annuity benefit, a cash surrender benefit of such amount as is specified in
 27 subsections (8), (9), (10), (11), and (13) of this section. The insurer may

1 reserve the right to defer the payment of this cash surrender benefit for a
 2 period not to exceed six (6) months after demand therefor with surrender of
 3 the contract after making written request and receiving written approval of
 4 the commissioner. The request shall address the necessity and equitability to
 5 all policyholders of the deferral;

6 (c) A statement of the mortality table, if any, and interest rates used in
 7 calculating any minimum paid-up annuity, cash surrender or death benefits
 8 that are guaranteed under the contract, together with sufficient information
 9 to determine the amounts of such benefits; and

10 (d) A statement that any paid-up annuity, cash surrender or death benefits that
 11 may be available under the contract are not less than the minimum benefits
 12 required by any statute of the state in which the contract is delivered and an
 13 explanation of the manner in which these benefits are altered by the
 14 existence of any additional amounts credited by the insurer to the contract,
 15 any indebtedness to the insurer on the contract, or any prior withdrawals
 16 from or partial surrenders of the contract.

17 Notwithstanding the requirements of this subsection, any deferred annuity
 18 contract may provide that if no considerations have been received under a
 19 contract for a period of two (2) full years and the portion of the paid-up annuity
 20 benefit at maturity on the plan stipulated in the contract arising from
 21 considerations paid prior to that period would be less than twenty dollars (\$20)
 22 monthly, the insurer may at its option terminate the contract by payment in cash
 23 of the then-present value of such portion of the paid-up annuity benefit,
 24 calculated on the basis of the mortality table, if any, and interest rate specified in
 25 the contract for determining the paid-up annuity benefit, and by this payment
 26 shall be relieved of any further obligation under such contract.

27 (4) The minimum values as specified in subsections (8), (9), (10), (11), and (13) of

this section of any paid-up annuity, cash surrender, or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this section.

(a) The minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to that time at rates of interest as indicated in subsection (5) of this section of the net considerations, as defined in paragraph (b) of this subsection, paid prior to that time, decreased by the sum of:

1. Any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest as indicated in subsection (5) of this section;
2. An annual contract charge of fifty dollars (\$50) accumulated at rates of interest as indicated in subsection (5) of this section; and
3. The amount of any indebtedness to the insurer on the contract, including interest due and accrued.

(b) The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount equal to eighty-seven and one-half percent (87.5%) of gross considerations credited to the contract during that contract year.

(5) The interest rate used in determining minimum nonforfeiture amounts shall be an annual rate of interest determined as the lesser of three percent (3%) per annum and the following, which shall be specified in the contract if the interest rate will be reset:

(a) The five (5) year Constant Maturity Treasury Rate reported by the Federal Reserve as of a date or average over a period rounded to the nearest one-twentieth of one percent (0.05%), specified in the contract no longer than fifteen (15) months prior to the contract issue date or redetermination date

1 under paragraph (d) of this subsection;

2 (b) Reduced by one hundred twenty-five (125) basis points;

3 (c) Where the resulting interest rate is not less than one percent (1%); and

4 (d) The interest rate shall apply for an initial period and may be redetermined
 5 for additional periods. The redetermination date basis and period, if any,
 6 shall be stated in the contract. The basis is the date or average over a
 7 specified period that produces the value of the five (5) year Constant
 8 Maturity Treasury Rate to be used at each redetermination date.

9 (6) During the period or term that a contract provides substantive participation in an
 10 equity indexed benefit, it may increase the reduction described in subsection
 11 (5)(b) of this section up to an additional one hundred (100) basis points to reflect
 12 the value of the equity index benefit. The present value at the contract issue date
 13 and at each redetermination date thereafter of the additional reduction shall not
 14 exceed the market value of the benefit. The commissioner may require a
 15 demonstration that the present value of the additional reduction does not exceed
 16 the market value of the benefit. Lacking such demonstration that is acceptable to
 17 the commissioner, the commissioner may disallow or limit the additional
 18 reduction.

19 (7) The commissioner may promulgate administrative regulations in accordance
 20 with KRS Chapter 13A implementing the provisions of subsection (6) of this
 21 section and to provide for further adjustments to the calculation of minimum
 22 nonforfeiture amounts for contracts that provide substantive participation in an
 23 equity index benefit and for other contracts for which the commissioner
 24 determines adjustments are justified.

25 (8) Any paid-up annuity benefit available under a contract shall be such that its
 26 present value on the date annuity payments are to commence is at least equal to
 27 the minimum nonforfeiture amount on that date. This present value shall be

1 computed using the mortality table, if any, and the interest rates specified in the
2 contract for determining the minimum paid-up annuity benefits guaranteed in
3 the contract.

4 (9) For contracts which provide cash surrender benefits, the cash surrender benefits
5 available prior to maturity shall not be less than the present value as of the date
6 of surrender of that portion of the maturity value of the paid-up annuity benefit
7 which would be provided under the contract at maturity arising from
8 considerations paid prior to the time of cash surrender reduced by the amount
9 appropriate to reflect any prior withdrawals from or partial surrenders of the
10 contract, the present value being calculated on the basis of an interest rate not
11 more than one percent (1%) higher than the interest rate specified in the contract
12 for accumulating the net considerations to determine the maturity value,
13 decreased by the amount of any indebtedness to the insurer on the contract,
14 including interest due and accrued, and increased by any existing additional
15 amounts credited by the insurer to the contract. In no event shall any cash
16 surrender benefit be less than the minimum nonforfeiture amount at that time.
17 The death benefit under the contracts shall be at least equal to the cash surrender
18 benefit.

19 (10) For contracts which do not provide cash surrender benefits, the present value of
20 any paid-up annuity benefit available as a nonforfeiture option at any time prior
21 to maturity shall not be less than the present value of that portion of the maturity
22 value of the paid-up annuity benefit provided under the contract arising from
23 considerations paid prior to the time the contract is surrendered in exchange for,
24 or changed to, a deferred paid-up annuity, the present value being calculated for
25 the period prior to the maturity date on the basis of the interest rate specified in
26 the contract for accumulating the net considerations to determine the maturity
27 value, and increased by any existing additional amounts credited by the insurer to

1 the contract. For contracts which do not provide any death benefits prior to the
 2 commencement of any annuity payments, the present values shall be calculated
 3 on the basis of the interest rate and the mortality table specified in the contract
 4 for determining the maturity value of the paid-up annuity benefit. However, in no
 5 event shall the present value of a paid-up annuity benefit be less than the
 6 minimum nonforfeiture amount at that time.

7 (11) For the purpose of determining the benefits calculated under subsections (9) and
 8 (10) of this section, in the case of annuity contracts under which an election may
 9 be made to have annuity payments commence at optional maturity dates, the
 10 maturity date shall be deemed to be the latest date for which election shall be
 11 permitted by the contract, but shall not be deemed to be later than the anniversary
 12 of the contract next following the annuitant's seventieth birthday or the tenth
 13 anniversary of the contract, whichever is later.

14 (12) Any contract which does not provide cash surrender benefits or does not provide
 15 death benefits at least equal to the minimum nonforfeiture amount prior to the
 16 commencement of any annuity payments shall include a statement in a
 17 prominent place in the contract that such benefits are not provided.

18 (13) Any paid-up annuity, cash surrender or death benefits available at any time,
 19 other than on the contract anniversary under any contract with fixed scheduled
 20 considerations, shall be calculated with allowance for the lapse of time and the
 21 payment of any scheduled considerations beyond the beginning of the contract
 22 year in which cessation of payment of considerations under the contract occurs.

23 (14) For any contract which provides, within the same contract by rider or
 24 supplemental contract provision, both annuity benefits and life insurance benefits
 25 that are in excess of the greater of cash surrender benefits or a return of the
 26 gross considerations with interest, the minimum nonforfeiture benefits shall be
 27 equal to the sum of the minimum nonforfeiture benefits for the annuity portion

1 and the minimum nonforfeiture benefits, if any, for the life insurance portion
2 computed as if each portion were a separate contract. Notwithstanding the
3 provisions of subsections (8), (9), (10), (11), and (13) of this section, additional
4 benefits payable:

5 (a) In the event of total and permanent disability;

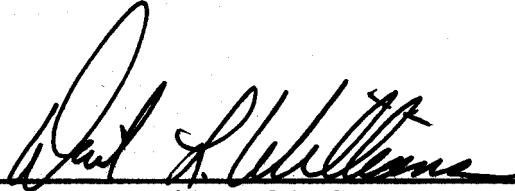
6 (b) As reversionary annuity or deferred reversionary annuity benefits; or

7 (c) As other policy benefits additional to life insurance, endowment and
8 annuity benefits, and considerations for all such additional benefits;


9 shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-
10 up annuity, cash surrender and death benefits that may be required by this
11 section. The inclusion of these additional benefits shall not be required in any
12 paid-up benefits, unless these additional benefits separately would require
13 minimum nonforfeiture amounts, paid-up annuity, cash surrender and death
14 benefits.

15 (15) (a) After August 1, 2005, any insurer may file with the commissioner a written
16 notice of its election to apply the provisions of this section on a contract-
17 form by contract-form basis to annuity contracts issued by the insurer
18 during the period from the date of the election through June 30, 2006.

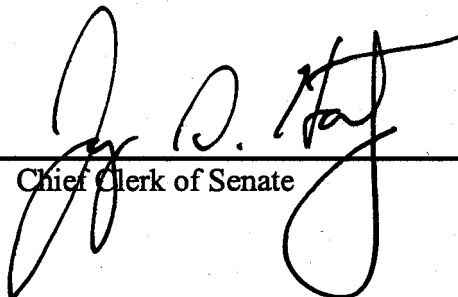
19 (b) Insurers shall apply the provisions of this section to annuity contracts
20 issued on or after July 1, 2006.



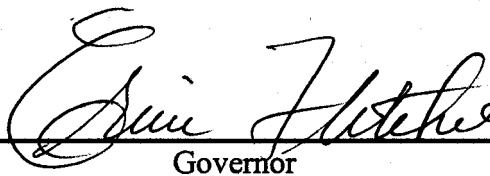
President of the Senate



Speaker House of Representatives

Attest: 

Chief Clerk of Senate

Approved 

Governor

Date 
